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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) CASE NO. CV
)
Plaintiff,)
) COMPLAINT
v.)
)

CAI YUAN LIN, RUYUN HONG, WENWEI)
LIN AKA WILLIAM LIN, STATE OF)
CALIFORNIA FRANCHISE TAX BOARD, E-))
TRADE MORTGAGE COPORATION,)
WELLS FARGO HOME MORTGAGE,)
)
Defendants.)

Now comes the United States of America, by and through its undersigned counsel, and
complains and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action brought by the United States to reduce to judgment outstanding
federal tax assessments against defendants, Cai Yuan Lin and Ruyun Hong, for tax years 2005 and 2006,
and to foreclose federal tax liens securing those tax assessments upon real property located at 920

1 Palmito Drive, Millbrae, California 94030 (hereinafter “the real property”).

2 2. This action is commenced pursuant to 26 U.S.C. §§ 7401, 7402 and 7403(a) at the
3 direction of the Attorney General of the United States, with the authorization and sanction and at the
4 request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the
5 Treasury.

6 3. Jurisdiction over this action is conferred upon this Court by 28 U.S.C. §§ 1340 and 1345,
7 and under 26 U.S.C. §§ 7402(a) and 7403.

8 4. Pursuant to 28 U.S.C. §§ 1391 and 1396, venue is proper in the Northern District of
9 California because the defendants/taxpayers, Cai Yuan Lin and Ruyun Hong, reside in this judicial
10 district, the tax liabilities arose within this judicial district, and the real property is situated within this
11 judicial district.

12 IDENTIFICATION OF DEFENDANTS

13 5. Defendant, Cai Yuan Lin, currently resides at 920 Palmito Drive, Millbrae, California
14 94030.

15 6. Defendant, Ruyun Hong, currently resides at 920 Palmito Drive, Millbrae, California
16 94030.

17 7. Defendant, Wenwei Lin aka William Lin, is made a party pursuant to 26 U.S.C. §
18 7403(b) in that he may claim an interest in the real property described in paragraph 11.

19 8. Defendant, State of California Franchise Tax Board, is made a party pursuant to 26
20 U.S.C. § 7403(b) in that it may claim an interest in the real property described in paragraph 11.

21 9. Defendant, E*TRADE MORTGAGE CORPORATION, is made a party pursuant to 26
22 U.S.C. § 7403(b) in that it may claim an interest in the real property described in paragraph 11.

23 10. Defendant, Wells Fargo Home Mortgage, is made a party pursuant to 26 U.S.C. §
24 7403(b) in that it may claim an interest in the real property described in paragraph 11.

25 IDENTIFICATION OF PROPERTY SOUGHT TO BE FORECLOSED

26 11. The real property which is the subject of this suit is located at 920 Palmito Drive,
27 Millbrae, California 94030, and is described in the office of the County Recorder of San Mateo, County,
28 California, as follows:

THE FOLLOWING DESCRIBED REAL PROPERTY IN THE OCUNTY OF SAN MATEO, STATE OF CALIFORNIA:

LOT 108, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED "CAPUCHINO GOLF CORPORATION, SUBDIVISION NO. 1, SAN MATEO COUNTY, CALIF.", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON SEPTEMBER 23RD, 1926 IN BOOK 147 OF MAPS, AT PAGE 24.

SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS, CONVENANTS, OIL, GAS OR MINIERAL RIGHTS OF RECORD, IF ANY.

A.P.N. 021-132-110

COUNT ONE

REDUCE ASSESSMENTS TO JUDGMENT

12. The United States realleges the allegations in paragraphs 1 through 11 above, as if fully set forth herein.

13. A delegate of the Secretary of the Treasury made assessments against defendants, Cai Yuan Lin and Ruyun Hong, for unpaid joint federal income taxes (Form 1040), penalties, and interest as set forth below:

| KIND OF TAX | TAX PERIOD | ASSESSMENT DATES | DATE NOTICE OF FEDERAL TAX LIEN FILED | UNPAID BALANCE OF TAXES PENALTIES AND INTEREST AS OF SEPTEMBER 30, 2017 |
|-------------|------------|------------------|---------------------------------------|-------------------------------------------------------------------------|
| 1040 | 2005 | 07/30/2012 | 10/08/2013 | \$ 140,480.15 |
| 1040 | 2006 | 07/30/2012 | 10/08/2013 | \$ 585,920.32 |
| TOTAL | | | | \$ 726,400.47 |

14. Despite timely notice and demand for payment of the taxes, penalties, and interest described in paragraph 13 above, defendants, Cai Yuan Lin and Ruyun Hong, have neglected, failed, or refused to pay the taxes, penalties and interest described in paragraph 13 above, and there remains due and owing on said assessments, as of September 30, 2017, the sum of \$726,400.47, plus accrued interest and penalties and other statutory additions as provided by law, minus any credits.

COUNT TWO

FORECLOSE FEDERAL TAX LIENS

1 15. The United States re-alleges the allegations in paragraphs 1 through 14 above, as if fully
2 set forth herein.

3 16. Pursuant to 26 U.S.C. §§ 6321 and 6322, liens arose in favor of the Plaintiff, United
4 States of America, upon all property and rights to property, whether real or personal, belonging to
5 defendants, Cai Yuan Lin and Ruyan Hong, as of the dates of the assessments described in paragraph 13
6 above, and to all property acquired thereafter.

7 17. On October 8, 2013, a delegate of the Secretary of the Treasury filed a Notice of Federal
8 Tax Lien against defendants, Cai Yuan Lin and Ruyan Hong, with the County Recorder of San Mateo
9 County, California, with, respect to unpaid joint federal income taxes for 2005 and 2006.

10 18. On December 9, 2014, a delegate of the Secretary of the Treasury filed a transferee
11 Notice of Federal Tax Lien against Wenwei Lin aka William Lin as transferee of Cai Yuan Lin and/or
12 Ruyun Hong.

13 19. The real property has, at all pertinent times, been property belonging to defendants, Cai
14 Yuan Lin and Ruyan Hong, for purposes of the tax lien provisions of the Internal Revenue Code.
15 Accordingly, the federal tax liens at issue attached to the real property when the liens arose, and these
16 tax liens have continued to the present, without interruption, to attach to such property.

17 WHEREFORE, upon its allegations, Plaintiff, United States of America, prays that:

18 A. That this Court determine and adjudge that defendants, Cai Yuan Lin and Ruyan Hong,
19 are personally liable to the United States of America for the sum of \$726,400.47, plus interest, and
20 statutory additions, as provided by law, that have accrued, and continue to accrue, from September 30,
21 2017, until fully paid; that a judgment in that amount, plus interest and statutory additions, be entered
22 against defendants, Cai Yuan Lin and Ruyan Hong, in favor of United States of America;

23 B. The Court determine and adjudge that Plaintiff, United States of America, has liens for
24 the unpaid federal income taxes of defendants, Cai Yuan Lin and Ruyan Hong, which encumber and
25 attach to the real property described in paragraph 11;

26 C. That Wenwei Lin aka William Lin holds nominal title to the real property as the
27 transferee of Cai Yuan Lin and Ruyan Hong, who hold equitable title to the real property;
28

1 D. That the tax liens and judgment lien of the United States of America be foreclosed and
2 that this Court order the sale of the real property described in paragraph 11;


3 E. That the proceeds from the sale of the real property be distributed according to the lien
4 priorities of the parties as determined by the Court;

5 F. That, Plaintiff, United States of America, be granted its costs of suit and attorneys' fees.

6 G. For such other and further relief as is just and proper.

7 Respectfully submitted,

8 ALEX G. TSE
9 Acting United States Attorney

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11 CYNTHIA STIER
12 Assistant United States Attorney
13 Tax Division
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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS**UNITED STATES OF AMERICA**(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
CYNTHIA STIER AUSA, TAX DIVISION
450 Golden Gate Ave., 11th Floor, Box 36055
San Francisco, CA, 94102, tel: 415-436-7000

DEFENDANTS**CAI YUAN LIN, et al.**County of Residence of First Listed Defendant **SAN FRANCISCO**
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|-------------------------------------------------------------|------------------------------------------|---------------------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------|
| 110 Insurance | PERSONAL INJURY | 625 Drug Related Seizure of Property 21 USC § 881 | 422 Appeal 28 USC § 158 | 375 False Claims Act |
| 120 Marine | 310 Airplane | 690 Other | 423 Withdrawal 28 USC § 157 | 376 Qui Tam (31 USC § 3729(a)) |
| 130 Miller Act | 315 Airplane Product Liability | LABOR | PROPERTY RIGHTS | 400 State Reapportionment |
| 140 Negotiable Instrument | 320 Assault, Libel & Slander | 710 Fair Labor Standards Act | 820 Copyrights | 410 Antitrust |
| 150 Recovery of Overpayment Of Veteran's Benefits | 330 Federal Employers' Liability | 720 Labor/Management Relations | 830 Patent | 430 Banks and Banking |
| 151 Medicare Act | 340 Marine | 740 Railway Labor Act | 835 Patent—Abbreviated New Drug Application | 450 Commerce |
| 152 Recovery of Defaulted Student Loans (Excludes Veterans) | 345 Marine Product Liability | 751 Family and Medical Leave Act | 840 Trademark | 460 Deportation |
| 153 Recovery of Overpayment of Veteran's Benefits | 350 Motor Vehicle | 790 Other Labor Litigation | SOCIAL SECURITY | 470 Racketeer Influenced & Corrupt Organizations |
| 160 Stockholders' Suits | 355 Motor Vehicle Product Liability | 791 Employee Retirement Income Security Act | 861 HIA (1395ff) | 480 Consumer Credit |
| 190 Other Contract | 360 Other Personal Injury | IMMIGRATION | 862 Black Lung (923) | 490 Cable/Sat TV |
| 195 Contract Product Liability | 362 Personal Injury -Medical Malpractice | 462 Naturalization Application | 863 DIWC/DIWW (405(g)) | 850 Securities/Commodities/Exchange |
| 196 Franchise | CIVIL RIGHTS | 465 Other Immigration Actions | 864 SSID Title XVI | 890 Other Statutory Actions |
| REAL PROPERTY | PRISONER PETITIONS | | 865 RSI (405(g)) | 891 Agricultural Acts |
| 210 Land Condemnation | 440 Other Civil Rights | HABEAS CORPUS | FEDERAL TAX SUITS | 893 Environmental Matters |
| 220 Foreclosure | 441 Voting | 463 Alien Detainee | <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | 895 Freedom of Information Act |
| 230 Rent Lease & Ejectment | 442 Employment | 510 Motions to Vacate Sentence | 871 IRS—Third Party 26 USC § 7609 | 896 Arbitration |
| 240 Torts to Land | 443 Housing/Accommodations | 530 General | | 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| 245 Tort Product Liability | 445 Amer. w/Disabilities—Employment | 535 Death Penalty | | 950 Constitutionality of State Statutes |
| 290 All Other Real Property | 446 Amer. w/Disabilities—Other | OTHER | | |
| | 448 Education | 540 Mandamus & Other | | |
| | | 550 Civil Rights | | |
| | | 555 Prison Condition | | |
| | | 560 Civil Detainee—Conditions of Confinement | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation—Transfer ☐ 8 Multidistrict Litigation—Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

26 U.S.C. §§ 7401, 7402 and 7403(a)

Brief description of cause:

REDUCE TO JUDGMENT

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$CHECK YES only if demanded in complaint:
JURY DEMAND: Yes ☒ No**VIII. RELATED CASE(S), IF ANY** (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

☒ **SAN FRANCISCO/OAKLAND**☐ **SAN JOSE**☐ **EUREKA-MCKINLEYVILLE**

DATE 04/05/2018

SIGNATURE OF ATTORNEY OF RECORD

